Draft Tenancy Policy

The Tenancy Policy explains the types of tenancies that will be offered in properties owned and managed by Dartford Borough Council. It also sets out the approach to tenancy management, including interventions to sustain tenancies, to prevent unnecessary evictions, and to tackle tenancy fraud.

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DARTFORD
BOROUGH COUNCIL

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1. INTRODUCTION

1.1. This Tenancy Policy explains the types of tenancies that will be offered in properties owned and managed by Dartford Borough Council ('the Council'). It also sets out the approach to tenancy management, including interventions to sustain tenancies, to prevent unnecessary evictions, and to tackle tenancy fraud.

1.2. In 2021, the Council made the decision to end the use of flexible tenancies and revert to offering secure lifetime tenancies to all tenants. The Council made this decision because it believes that secure lifetime tenancies contribute towards promoting strong and successful communities; providing long term stability to those most in housing need.

1.3. All existing flexible tenancies are being or have been transitioned to secure lifetime tenancies during or at the end of a tenant's fixed term agreement. Individual consultation with affected tenants was carried out to discuss the transition from flexible to secure lifetime tenancies.

1.4. In circumstances where a tenancy is offered to a new tenant or a person who has previously held a social housing tenancy, but with a break in tenure, a secure lifetime tenancy will be preceded by a 12-month introductory tenancy.

1.5. Homes managed by housing associations are not covered by this Tenancy Policy. Housing associations have their own tenancy policies in place, in terms of the tenure they offer, which must have regard to the Council's Tenancy Strategy.

2. PURPOSE OF THIS POLICY

2.1. The Regulatory standards for landlords sets out the specific standards that providers of social and affordable housing, including the Council, must meet.

2.2. Within the regulatory standards, the Tenancy Standard and the Transparency, Influence and Accountability Standard places a number of requirements on registered providers, which includes publishing clear and accessible policies, which outline their approach to tenancy management; including interventions to sustain tenancies, to prevent unnecessary evictions, and to tackle tenancy fraud. Tenancy policies should also set out:

- the type of tenancies the provider will grant
- where tenancies are granted on a fixed term, the length of the term and other such relevant matters regarding their use
- the policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.

3. POLICY AIMS

- To grant the correct tenancy in compliance with the law.
- To provide tenants in settled accommodation with security of tenure which supports their wellbeing and sustainable communities.
- To provide effective tenancy management to help tenants sustain tenancies and prevent unnecessary evictions and homelessness.
- To ensure the Council makes best use of its housing stock.
- To ensure that statutory and regulatory responsibilities are met.
- To ensure that a consistent, clear and fair approach is taken.
- To ensure that tenants and prospective tenants understand their rights and responsibilities.

4. STRATEGIC CONTEXT

4.1. The primary legislation regarding the tenancies operated by the Council is the Housing Act 1985 (as amended).

4.2. This Tenancy Policy has regard to the Council's Tenancy Strategy, which sets out matters which registered providers of social housing should have regard to when formulating policies for their own stock.

4.3. This Tenancy Policy also has regard to the Council's Housing Allocations Policy, which sets out the criteria and procedures that the Council uses to prioritise applicants for social housing owned by the Council and a proportion of homes owned by housing association partners in the Borough.

4.4. This Tenancy Policy will be implemented in conjunction with a range of housing policies that relate to the management of Council tenancies and the delivery of landlord services, as set out in Section 19.

4.5. This Tenancy Policy meets the Council's Corporate Plan's strategic ambitions to:

- Provide a high quality and responsive housing service that's built on respect for aspiring and existing tenants. We want to be practical, honest and straightforward in all the information and advice we give.
- Strive for full compliance with the Regulator of Social Housing's consumer standards in delivering good quality homes and services to the tenants that live in our homes.

4.6. This Tenancy Policy supports the Council's Equality and Diversity Framework aim 'to achieve equality of opportunity in the delivery of the approach to the types of tenancies offered in properties owned and managed by the Council'.

5. ACCESS TO A COUNCIL TENANCY

5.1. Access to a Council tenancy is in accordance with the Council's Housing Allocations Policy. This sets out the eligibility criteria to join the Housing Register and the priority bands that housing applicants may be placed into.

5.2. All prospective tenants will be required to supply evidence of their financial income and resources upon application and will complete an affordability check immediately prior to offer; as set out in this Tenancy Policy. This is to ensure that social housing meets the needs of those households who are unable to afford to buy or rent housing on the open market.

5.3. If a prospective tenant has an income and savings level exceeding the thresholds set out in this Tenancy Policy, they will not be considered eligible for a Council tenancy.

5.4. If prospective tenants are not in receipt of Universal Credit or other means tested benefits, verification of income and savings will be required before the Council can consider whether to offer a tenancy. Where a household has an income above the level set by the Council, as detailed in Table 1, **or has £40,000 or more in savings, or has acquired a residential property**, the applicant/s will normally only be offered advice or assistance in finding alternative accommodation.

5.5. Income will be assessed using the formula set out in the table below which will be updated on a regular basis.

5.6. The formula is based on the cost of private renting in Dartford against income and the assumption that no more than 35% of net income should be spent on housing costs.

Table 1. Income threshold by bedroom size – 2026

PROPERTY TYPE	*Average monthly private sector rent	Average yearly private sector rent	Local Housing Allowance Rates for Dartford as at May 2023	NET HOUSEHOLD INCOME THRESHOLD (rounded up or down to nearest £k) assuming no more than 35% of net salary is spent on housing costs
Shared Accommodation	£1,126	£13,512	£103.87 (shared accommodation. rate)	£39,000
STUDIO/1 BED	£1,147	£13,764	£172.60	£39,000
2 BED	£1,729	£20,748	£228.99	£59,000
3 BED	£2,264	£27,168	£276.16	£78,000
4 BED	£2,299	£27,588	£333.70	£79,000

* Based on 2026 estate agent data

5.7. A household is defined as lead tenant and spouse or joint tenants. For example, a household requiring a two bedroom property, where NET salary exceeds £59,000 **will not** be eligible to join the Council's Housing Register. In this case, including the threshold for savings, accommodation will need to be sought within the private housing sector.

6. INTRODUCTORY TENANCIES

6.1. All new council tenants will be granted an introductory tenancy. This includes any person or household who has previously held a council tenancy but there has been a break in tenure.

6.2. An introductory tenancy is a trial tenancy that lasts for 12 months. Where introductory tenants successfully complete the 12 month trial period, the tenancy will become a secure lifetime tenancy.

6.3. Introductory tenancies can be extended by six months if there have been breaches to the tenancy agreement. The introductory tenant has a right to request a review of the decision to extend the tenancy.

6.4. Introductory tenants have fewer rights to secure lifetime tenants (see section 7.3 below). The following rights are not included in an introductory tenancy:

- Right to assign
- Right to exchange
- Right to buy
- Right to sublet or take in a lodger
- Right to improve their property

7. LIFETIME TENANCIES

7.1. After successful completion of an introductory tenancy, tenants will be granted a lifetime tenancy.

7.2. Lifetime tenancies are secure tenancies where, with some limited exceptions, if tenants do not breach the conditions of their tenancy agreement, their tenancy will last as long as the tenant would like it to.

7.3. Secure tenants have the following rights:

- Right to repair
- Right to improve their property and be compensated
- Right to assign
- Right to succeed
- Right to buy
- Right to sublet or take in a lodger
- Right to exchange
- Right to information
- Right to be consulted
- Right to manage (to set up a Tenant Management Organisation)

7.4. In accordance with the Domestic Abuse Act 2021, if a person has fled domestic abuse and they previously held a secure lifetime tenancy, their new tenancy will continue to be a secure tenancy.

7.5. **Demoted tenancies**

7.5.1. The Council can apply to demote a secure lifetime tenancy where the tenant, or someone living with or visiting the tenant, has:

- Engaged or threatened to engage in anti-social behaviour; or
- Used or threatened to use the property for an unlawful purpose.

7.5.2. A demoted tenancy is no longer secure and it has fewer rights that bear similarities with introductory tenancies. More information on demoted tenancies can be found in the Demoted Tenancy Policy.

8. ASSIGNMENT

8.1. An assignment is where a tenancy is transferred to another person. The incoming tenant (assignee) 'steps into the shoes' of the outgoing tenant (assignor) and occupies under the same terms, taking on the rights and responsibilities of the tenancy.

8.2. Section 91 of the Housing Act 1985 allows statutory assignment under the following three grounds:

- Assignment by way of exchange (mutual exchange)
- Assignment to someone who would be qualified to succeed the tenant on the tenant's death
- Where a court makes a Property Transfer Order in connection with matrimonial proceedings or civil partnership proceedings, or proceedings under the Children Act 1989.

8.3. The Council will consider non-statutory assignments in some circumstances. Further information regarding statutory and non-statutory assignment can be found in the Housing Assignment Policy.

8.4. In some cases a household will be allowed to stay in a property for a short period of time following the end of the tenancy (and there is no right of succession) or where a joint tenancy has been ended by one of the joint tenants but the other former joint tenant has been left in occupation. They are not tenancies and the occupiers have no rights of tenancy. The Council will consider the housing need of the household and work with them to find suitable alternative accommodation in accordance with the Housing Allocations Policy.

9. TRANSFERS

9.1. Secure tenants wanting to move to another social housing property are encouraged to seek to move via a mutual exchange (as covered in the Housing Assignment Policy).

9.2. Secure tenants may also apply for a housing transfer by applying to join the housing register. However, introductory tenants will not be eligible to apply for a housing transfer, unless there are exceptional circumstances that have been considered under a medical and welfare assessment or a management decision.

9.3. **Urgent transfers**

9.3.1. Management transfers may be authorised where there is an urgent need to move due to reasons of domestic abuse, violence, harassment, intimidation, hate crime, or threats of violence likely to be carried out or other urgent management reason. Further information on the management transfer process can be found in the Housing Management Transfer Policy.

10. TACKLING UNDER AND OVER OCCUPATION

10.1. The Council recognises that there is a significant under supply of available family homes within the borough. Currently occupied homes may contain households that no longer require a larger property. To help alleviate the shortage of larger homes, the Council wants to support tenants to move when their homes no longer meet their needs, to free-up these larger homes for families living in overcrowded housing.

10.2. The Council aims to use its housing stock in the most effective way to meet housing need. To increase the number of larger properties that become available each year, the Council operates a downsizing incentive scheme to support tenants seeking to downsize from family sized Council homes (2 or more bedrooms) to a smaller property that better meets their housing needs. This scheme offers generous cash payments to tenants who are under occupying their homes. Further information on the Downsize for Cash Scheme can be found in the Under-Occupation Policy or tenants can talk to their housing officer directly.

11. DECANTS

11.1. **Temporary decants**

11.1.1. A temporary decant is where a tenant is required to move out of the property temporarily into alternative accommodation due to major repairs or improvement works that means the tenant cannot remain in the property while the work is carried out.

11.1.2. If the work is estimated to take a few weeks then alternative accommodation may be offered with a ‘right to return’. In this case, the move would be strictly temporary, with the tenant(s) moving back to their principal home as soon as the works have been completed and the home is available.

11.2. **Permanent decants**

11.2.1. A permanent decant is where a tenant moves from the property permanently due to the demolition, redevelopment or re-designation of the property.

11.2.2. The Council will grant existing Council tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.

11.2.3. Further information on the decant process can be found in the Decant Policy.

12. TACKLING TENANCY FRAUD

12.1. The Council defines tenancy fraud as 'any intentional false representation, including failure to declare information or abuse of position that is carried out to make a gain, cause loss, or expose another to the risk of loss'. This can include:

- Fraudulently obtaining a tenancy
- Non-occupation by the tenant as their principal home
- Unlawful sub-letting
- Wrongly claimed succession
- Unauthorised assignments
- 'Key Selling'
- Not notifying the landlord when the tenant moves out or passes away
- Providing misleading or false information on an application to purchase a property through the Right to Buy scheme.

12.2. Tenancy fraud is a criminal offence and in addition to the risk of eviction, tenants committing tenancy fraud risk prosecution under the Prevention of Social Housing Fraud Act 2013 which could result in imprisonment and/or a fine.

12.3. More information on how the Council tackles tenancy fraud can be found in the Tenancy Fraud Policy for Council Housing.

13. SUSTAINING TENANCIES AND PREVENTING UNECESSARY EVICTION

13.1. The Council will provide services that support its tenants, particularly those who are vulnerable. Eviction will only be used as a last resort where other interventions and support to address tenancy breaches have proved unsuccessful.

13.2. There are a range of ways the Council works to sustain tenancies and prevent unnecessary evictions, for example:

- New tenants are provided with a Tenancy Support Pack which contains information to help them settle into their new home and understand their rights and responsibilities.
- New tenants are contacted two weeks (but not later than six weeks) after the signup to check they are settling in well and to address any issues early on in the tenancy.

- Attributes are used within the housing management system to record protected characteristics and to flag household vulnerabilities. This ensures reasonable adjustments can be put in place to support the household.
- Signposting and referring tenants to statutory and support services.
- Housing Inclusion Service intervention to improve outcomes in a range of areas including; housing options, managing money, claiming benefits, debt advice, registering with a doctor or getting help from other services, accessing education, training or work opportunities.
- Complex Case Panel intervention to prevent evictions and homelessness.

13.3. The Vulnerable Adults Housing Policy further explains how council tenants are supported to help sustain their tenancy.

14. ENDING A TENANCY

14.1. When a tenant ends a tenancy

14.1.1. If a tenant wishes to end their tenancy, then at least four weeks' notice in writing must be given to the Council.

14.1.2. The rent must be paid to the end of the notice period and the keys to the property returned to the Council before 12 o'clock midday on the final Monday following termination of the tenancy.

14.1.3. Where there is a joint tenancy either of the tenants can end the tenancy by giving notice in writing. **It is important to note that if a joint tenant ends a tenancy this will end the tenancy for all joint tenants**. Remaining joint tenants, not entitled to succeed to the tenancy, will be expected to find alternative accommodation. If the Council exercises its discretion and allows a joint tenant to remain in a property, a new tenancy will be created.

14.2. When the Council ends a tenancy

14.2.1. If a tenant has breached the terms of their tenancy, the Council may take action to end the tenancy in accordance with relevant legislation, giving the tenant the appropriate statutory notice. This means that the Council will write to the tenant to say that the tenancy is being ended and explain the reasons for this. It will usually be necessary for the Council to go to court to gain a court order to end a tenancy and gain possession of the property.

15. COMPLAINTS

15.1. If a resident is not satisfied with the service they have received in terms of a tenancy decision or in the management of the tenancy, the Council's Corporate Complaints Procedure can be followed. Complaints leaflets are also available from the Council offices.

15.2. The Housing Ombudsman can be contacted if further advice and support is needed on making a complaint to the Council.

16. DATA PROTECTION

16.1. The UK GDPR and the Data Protection Act 2018 regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.

16.2. The Council needs to collect and use certain types of information about its tenants in order to carry out its everyday business and to fulfil its objectives and its statutory functions.

16.3. The Council's:

- Data Protection Policy sets out how it will protect special category and criminal convictions personal data; and
- Housing Services (Landlord and Tenant) Privacy Notice explains that the Council collects personal information to administer its housing (landlord and tenant) services.

17. EQUALITY AND DIVERSITY

17.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this Policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.

17.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.

17.3. This Tenancy Policy has been subject to a Customer Access Review, to assess the impact it will have on equality. The review concluded there were no known circumstances of a negative equality impact.

18. REVIEW

18.1. This Tenancy Policy will be reviewed every three years or earlier to address legislative, regulatory, best practice, operational issues or updates on income thresholds.

19. ASSOCIATED POLICIES

19.1. This policy will be implemented in conjunction with the following policies that relate to the allocation of tenancies and the delivery of landlord services:

- Aids and Adaptations Policy for Council Tenants
- Anti-Social Behaviour and Hate Incident Policy
- Asbestos Management Policy and Plan
- Compensation for Improvements Policy
- Demoted Tenancy Policy
- Damp, Mould and Condensation Policy for Council Tenanted Properties
- Decant Policy
- Domestic Abuse Housing Policy
- Fire Safety Policy
- Housing Allocations Policy
- Housing Assignment Policy
- Housing Management Transfer Policy
- Housing Policy on the Maintenance of Trees, Hedges and Shrubs
- Housing Recharge Policy
- Housing Repairs and Maintenance Policy
- Housing Statutory Maintenance and Compliance Policy
- Neighbourhood Management Policy
- Policy on Consultation with Residents on Housing Policy/Strategy
- Policy on Keeping Pets and Other Animals in Council Properties
- Rent Arrears Policy
- Rent Setting Policy for Council Homes within the Housing Revenue Account
- Running a Business from Home Policy for Council Tenants and Leaseholders
- Tenancy Fraud Policy for Council Housing
- Under-Occupancy Policy
- Vulnerable Adults Housing Policy